

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

JOHN NELSON,

Defendant.

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Criminal No. 10-10386-JLT

ORDER

August 29, 2012

TAURO, J.

After a Pretrial Conference held on August 28, 2012, this court hereby orders that:

1. Defendant's Motion to Disallow the Testimony of Richard Pannone [#48] is DENIED. Mr. Pannone's testimony satisfies the requirements of Fed. R. Evid. 701 and Fed. R. Evid. 602 because he has personal knowledge of the mortgage process based on his experience working in the mortgage loan industry.¹
2. The Government's Motion to Preclude Evidence and Argument that Victim Lenders Were Negligent [#38] is ALLOWED. Whether a false statement is material is evaluated under an objective standard that is not affected by the negligence of the victim lenders.² This ruling does not preclude Defendant from presenting evidence tending to negate his specific intent to commit the alleged crime or show his good faith.

¹ See United States v. Valdivia, 680 F.3d 33, 50-51(1st Cir. 2012); United States v. Ayala-Pizarro, 407 F.3d 25, 28-29 (1st Cir. 2005).

² See United States v. Blastos, 258 F.3d 25, 29 (1st Cir. 2001); United States v. Neder, 197 F.3d 1122, 1128 (11th Cir. 1999).

3. Defendant's Motion to Prohibit the Government from Introducing Undisclosed Border Crossing Records [#50] is DENIED WITHOUT PREJUDICE.
4. Defendant's Motion to Exclude Evidence of Foreclosures as Irrelevant [#51] is DENIED AS MOOT by agreement of the parties.
5. Defendant's Motion to Exclude Hearsay Statements of Alleged Co-Conspirator [#52] is DENIED AS MOOT by agreement of the parties.
6. Defendant's Motion to Exclude the Testimony of Jacqueline Finn [#53] is ALLOWED AS MOOT by agreement of the parties.
7. The Government's Motion to Preclude Evidence and Argument About Real Estate Transactions That Did Not Involve the Defendant or Any Other Participant in the Scheme [#56] is DENIED WITHOUT PREJUDICE.
8. A Trial is scheduled to begin on September 10, 2012, at 10:00 a.m.

IT IS SO ORDERED.

/s/ Joseph L. Tauro
United States District Judge